



OKLAHOMA STATE HEMP PLAN

Oklahoma Department of
Agriculture, Food and Forestry
2800 N. Lincoln Blvd.
Oklahoma City, Oklahoma 73105
405.521.3864 | ag.ok.gov

Introduction

Pursuant to 7 C.F.R. 990.2, states which seek to have primary authority over the regulation and production of hemp in their home jurisdiction must complete a state plan for review and approval by the United States Department of Agriculture (hereinafter "USDA"). This document serves as the Oklahoma Department of Agriculture, Food and Forestry's (hereinafter "ODAFF") submission of its state plan in compliance with 7 C.F.R. 990.2. This document does not include tribal jurisdictions.

Please note that on April 18, 2019, Governor Kevin Stitt signed into law Senate Bill 868 (SB 868), which decriminalized hemp on a state level. SB 868 required ODAFF to adopt rules, which establish federally compliant standards and procedures for the program. The ODAFF has completed the initial emergency rule making process. Therefore, the rules referred to in this document and attached in Exhibit 2 are approved as emergency rules. Any future changes to these rules will be reported to USDA.

1. Plans to maintain relevant producer and land information

- A. ODAFF was granted authority by the legislature in [2 O.S. Section 2-4 A\(37\)](#) which states the following:
1. *“Prepare, in consultation with the Governor and the Attorney General, any necessary plans, reports or other documents for submission to the United States Department of Agriculture for approval of the Oklahoma Industrial Hemp Program.”*
- B. ODAFF has the authority to collect, maintain, and provide contact information for each hemp producer covered under the plan including name, address, telephone number, and email address (if available). If the producer is a business entity, the information must include the full name of the business, address of the principal business location, full name and title of the key participants, an email address if available, and EIN number of the business entity. This information can be provided via mail, fax, or email to ODAFF and will be provided to USDA for each hemp producer licensed or authorized in the state.
1. Statutory authority for licensing in [2 O.S. Section 3-404](#).
 2. Emergency rules for licensing in O.A.C. 35:30-24-3. A copy is attached in Exhibit 2.
 3. The ODAFF requires that each prospective grower and processor apply for a license utilizing forms authorized by the ODAFF and that information will be maintained in a database program. This program will allow the ODAFF to transmit information regarding licensed hemp growers to USDA upon request. Specifically, the ODAFF shall provide USDA, by the first of each month, a report providing the contact information and the status of the licensed grower or other authorization issued for each licensed grower in Oklahoma. The ODAFF shall



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utilize form AMS-23 titled "STATE AND TRIBAL HEMP PRODUCER REPORT" to meet this requirement. The ODAFF shall include the following information in the report referenced in the paragraph above and required in O.A.C. 35:30-24-3:

- For each new grower who is an individual and is licensed or authorized by the ODAFF, the report shall include full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available).
 - For each new grower that is an entity and is licensed or authorized by the ODAFF, the report shall include full name of the entity, the principal business location address, license or authorization identifier, and the full name, title, and email address (if available) of each employee for whom the entity is required to submit a criminal history record report.
 - For each grower that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information.
 - The status of each cultivator's license or authorization.
 - The period covered by the report.
 - Indication that there were no changes during the current reporting cycle, if applicable.
- C.** A legal description collected and forwarded for land where hemp is produced in the state.
1. The ODAFF requires each prospective licensee to provide the following information for each growing location annually upon application: global positioning coordinates; physical address or legal description; maps for each field, greenhouse, building, or storage facility where hemp will be cultivated or stored; and number of outdoor acres and/or indoor square footage. See cited authority above.
- D.** ODAFF will maintain and report to USDA status of licensed producers on a timely basis along with any changes to the license or authorization numbers of producers.
1. ODAFF will provide USDA, by the first of each month, a report providing the contact information and the status of the license or other authorization issued for each licensed grower in Oklahoma. The ODAFF shall utilize form AMS-23 titled "STATE AND TRIBAL HEMP PRODUCER REPORT" to meet this requirement.
 2. The ODAFF shall include the following information in the report referenced in the paragraph above:



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- Each new licensee who is an individual and is licensed or authorized by the ODAFF. The report shall include full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available).
 - For each new licensee that is an entity and is licensed or authorized by the ODAFF, the report shall include full name of the entity, the principal business location address, license or authorization identifier, and the full name, title, and email address (if available) of each employee for whom the entity is required to submit a criminal history record report.
 - For each licensee that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information.
 - The status of each license or authorization.
 - The period covered by the report.
 - Indication that there were no changes during the current reporting cycle, if applicable.
- 2. Plans for accurate and effective sampling testing using post decarboxylation or similar reliable methods**
- A. ODAFF procedures for collecting samples from the flower material of plants 15 days prior to the anticipated harvest date.
 - 1. See Exhibit 3.
 - B. ODAFF procedures to ensure the method used for sampling represents a homogenous composition of the lot.
 - 1. See Exhibit 3.
 - 2. The number of plants that will be selected to form a composite sample is based upon the Codex Alimentarius Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLS CAC/GL 33-1999.
 - C. ODAFF procedure/statement/allowance to require the producer or an authorized representative of the producer to be present at the growing site during sample collection.
 - 1. Statutory authority for grower to be present during sample collection [2 O.S. Section 3-407](#).
 - 2. Emergency rules for grower to be present during sample collection in O.A.C. 35:30-24-11. A copy is attached in Exhibit 2.
 - D. ODAFF procedures to allow for representatives of the sampling agency to have complete and unrestricted access during business hours to all hemp and other cannabis plants, and all land, buildings, etc. used for cultivation and/or handling.



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1. Statutory authority for access during sample collection [2 O.S. Section 3-407](#).
 2. Emergency rules for access during sample collection is in O.A.C. 35:30-24-3 (c)14(C) & (f). A copy is attached in Exhibit 2.
- E. ODAFF procedures to ensure that a producer does not harvest any cannabis prior to samples being taken.
1. Emergency rules for preventing harvest in O.A.C. 35:30-24-11 (c)4. A copy is attached in Exhibit 2.
- F. ODAFF procedures to require testing for delta-9 THC concentration. The procedures must require accurate identification of the acceptable hemp THC level. Testing methods must include but are not limited to: 1) Post decarboxylation or other similarly reliable method (*if “similarly reliable,” verify with AMS S&T); 2) Consideration of potential conversion of delta-9 THCA into THC and test result measure total available THC (THC + THCA); 3) Use of gas or liquid chromatography with detection; 4) Procedures to determine total THC concentration on a dry weight basis.
1. Emergency rules for testing in O.A.C. 35:30-24-11. A copy is attached in Exhibit 2.
- G. ODAFF procedures that prohibit handling, processing, or entering the stream of commerce of any hemp grown in a lot where the acceptable hemp THC level is noncompliant
1. Emergency rules for destruction in O.A.C. 35:30-24-12 (d)10. A copy is attached in Exhibit 2.
 2. Emergency rules for destruction in O.A.C. 35:30-24-13. A copy is attached in Exhibit 2.
- H. ODAFF procedures to ensure the hemp plant material from one lot not be commingled with hemp plant material from other lots.
1. Emergency rules in O.A.C. 35:30-24-12(d)8. A copy is attached in Exhibit 2.
- I. ODAFF procedures to require hemp testing laboratories to adhere to standards of performance for detecting THC concentration, including Measurement of Uncertainty (MU); must use DEA registered labs.
1. Emergency rules for laboratories in O.A.C. 35:30-24-11 a & b. A copy is attached in Exhibit 2.
- 3. Plan for disposal procedures**
- A. ODAFF has the following procedures for plants that do not meet the requirements for THC Concentration.



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1. Emergency rules for destruction in O.A.C. 35:30-24-12 (d)9 & (d)10. A copy is attached in Exhibit 2.
 2. Emergency rules for destruction in O.A.C. 35:30-24-13. A copy is attached in Exhibit 2.
 - B. USDA will be notified of all non-compliant plant samples and disposal of those plants by ODAFF from where the representative samples were taken. Test results will be included.
 1. ODAFF will notify USDA of all non-compliant samples, the disposal of those plants and provide a copy of the test results.
- 4. Plan for inspection procedures**
- A. Procedure for conducting annual inspections of random sample of licensed producers to verify that hemp is not produced in violation of this part.
 1. [2 O.S. Section 3-407](#)
 2. Emergency rules for sampling O.A.C. 35:30-24-11. A copy is attached in Exhibit 2 and 3.
- 5. Plan for collection of information**
- A. Procedure for submitting the information described in 990.70 to the Secretary not more than 30 days after the date on which the information is received.
 1. ODAFF will provide information about approved cultivation, handling, and storage site locations to representatives of the United States Department of Agriculture (USDA), and any federal, state, or local law enforcement agency whose representatives request licensed site information, including GPS coordinates. ODAFF has the capability and the procedures in place to meet the requirements of 990.70 not more than thirty days after the date, which the information was received.
 - B. Procedure for producers licensed under state and tribal government plans to share information with USDA, Agricultural Marketing Service (AMS), or Farm Service Agency (FSA) including: 1) hemp crop acreage; 2) reporting total acreage of hemp planted, harvested, and disposed; 3) license or authorization number; 4) street address; 5) geospatial location(s) of each lot or greenhouse where hemp will be produced; 6) acreage of greenhouse or indoor square footage dedicated to the production of hemp.
 1. O.A.C. 35:30-24-5.3 requires a licensed grower to report their hemp crop acreage to the UDSA FSA. Additionally, growers are required to submit pre and post-harvest reports to ODAFF in O.A.C. 35:30-24-9.
 2. ODAFF will provide USDA, by the first of each month, a report providing the contact information and the status of the license or other authorization issued for each licensed grower in Oklahoma. The ODAFF shall utilize form AMS-23 titled "STATE AND TRIBAL HEMP PRODUCER REPORT" to meet this requirement.



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3. The ODAFF shall include the following information in the report referenced in the paragraph above:
 - Each new licensee who is an individual and is licensed or authorized by the ODAFF. The report shall include full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available).
 - For each new licensee that is an entity and is licensed or authorized by the ODAFF, the report shall include full name of the entity, the principal business location address, license or authorization identifier, and the full name, title, and email address (if available) of each employee for whom the entity is required to submit a criminal history record report.
 - For each licensee that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information.
 - The status of each license or authorization.
 - The period covered by the report.
 - Indication that there were no changes during the current reporting cycle, if applicable.
4. Licensees shall report industrial hemp crop acreage or square footage to the USDA Farm Service Agency and shall provide, at a minimum, the following information:
 - a. Street address and, to the extent practicable, geospatial location for each lot, greenhouse, or indoor growing structure where industrial hemp will be produced. If an applicant operates in more than one location, information shall be provided for all production sites;
 - b. Acreage or square footage for each lot, greenhouse, or indoor growing structure dedicated to the production of industrial hemp;
 - c. License number; and
 - d. Total acreage or square footage of industrial hemp planted, harvested, and destroyed.
6. **Plan to comply with enforcement procedures**
 - A. Provides for corrective action plan for negligent violations: 1) failure to provide legal description of land; 2) failure to obtain a license; 3) produces cannabis with THC exceeding the acceptable hemp THC level.
 1. [2 O.S. Section 3-408](#)
 2. Emergency rules for destruction in O.A.C. 35:30-24-12 and O.A.C. 35:30-24-13. A copy is attached in Exhibit 2.



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- B. Procedures to provide for the correction of negligent violations: 1) a reasonable date to correct the violation; 2) reporting requirements for 2 years from date of the negligent violation; 3) violations are not subject to federal, state, tribal, or local government criminal enforcement action; 4) provides that a negligent violation 3 times within a 5-year period is ineligible to produce hemp for a period of 5 years from the date of the 3rd violation; 5) state or tribal government shall conduct inspections to determine if corrective action plan has been implemented.
1. [2 O.S. Section 3-408](#)
 2. Draft rule is in O.A.C. 35:30-24-12. Emergency rules are in O.A.C. 35:30-24-4, O.A.C. 35:30-24-10, O.A.C. 35:30-24-12 and O.A.C. 35:30-24-13. A copy is attached in Exhibit 2.
 3. In the event the Department determines that a Licensee has negligently violated the Oklahoma Industrial Hemp Act and Rules, then the Department will issue a Corrective Action Plan to said Licensee.
 - a) The Corrective Action Plan will include, but may not be limited to:
 - i. A reasonable date by which the Licensee must correct the negligent violation, which may include destruction of hemp crops in accordance with these Rules;
 - ii. A requirement that the Licensee must periodically report to the Department on the compliance status of the Licensee with the Corrective Action plan for a period of not less than two (2) years after the violation; and
 - iii. Any and all reasonable steps the Department deems necessary and proper to address the negligent violation(s).
 - b) Licensees do not commit a negligent violation if they make reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration of more than 0.5 percent on a dry weight basis.
 - c) The Department will monitor and conduct any and all inspections necessary to determine if the corrective action plan has been implemented as required.
- C. Procedures for producer violations made with a culpable mental state greater than negligence: Producer shall be reported to the U.S. Attorney General and the chief law enforcement officer of the state or tribal government.
1. ODAFF will report a person who has violated O.A.C. 35:30-24-12 with a culpable mental state greater than negligence to the attorney general, the United States Attorney General, and the applicable county prosecutor.
- D. Procedures for addressing felonies: 1) provides for a 10-year ineligibility restriction for persons with a state or felony conviction relating to a controlled substance; 2) provides for controlled substance felony conviction exception for participants in state hemp pilot program authorized under the 2014 Agricultural Act before December 2018; 3) procedures for business entities to determine which participants are considered to be “key,” or have executive managerial control.
1. [2 O.S. Section 3-408](#)



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2. Emergency rules defining “key participant” in O.A.C. 35:30-24-2. A copy is attached in Exhibit 2.
- E. Procedures stating that any persons who materially falsify any information in their application shall be deemed ineligible to participate in the program.
 1. Emergency rules for enforcement procedures in O.A.C. 35:30-24-4 & O.A.C. 35:30-24-12(d)1. A copy is attached in Exhibit 2.
7. **Certification that the state has resources and personnel to carry out required Farm Bill practices and procedures**
 - A. The ODAFF hereby certifies that it has the resources and personnel to carry out the requirements, practices, and procedures as outlined in 7 CFR 990.

By: Blayne Arthur
Blayne Arthur,

Date: 9-14-20

Secretary of Agriculture, ODAFF



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EXHIBIT 1

ODAFF INDUSTRIAL HEMP PROGRAM STATUTES



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Oklahoma Industrial Hemp Program Act

SECTION 3-401 Introduction

This act shall be known and may be cited as the "**Oklahoma Industrial Hemp Program**".

SECTION 3-402 Definitions

As used in the Oklahoma Industrial Hemp Program:

1. "**Department**" means the Oklahoma Department of Agriculture, Food, and Forestry;
2. "**Handling**" means possessing or storing industrial hemp for any period of time on premises owned, operated or controlled by a person licensed to cultivate or process industrial hemp, and also includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person;
3. "**Industrial hemp**" means the plant *Cannabis sativa* L. and any part of the plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry-weight basis;
4. "**Licensee**" means a person who holds a valid Industrial Hemp License to grow industrial hemp under the Oklahoma Industrial Hemp Program;
5. "**License**" means authorization by the Department for any person to grow and cultivate industrial hemp on a registered land area as part of the Oklahoma Industrial Hemp Program; and
6. "**Processing**" means converting industrial hemp into a marketable form, including the production of all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.

SECTION 3-403 Licensee authorization

A. A licensee is authorized to:

- A. Engage in the growth and cultivation of industrial hemp for agricultural plant research purposes; and.
- B. Upon approval by the United States Department of Agriculture of the Oklahoma Industrial Hemp Program, engage in the growth, cultivation, handling or processing of industrial hemp.

B. The activities performed under the Oklahoma Industrial Hemp Program shall not subject the persons participating in the program to criminal liability under the Uniform Controlled Dangerous Substances Act. The exemption from criminal liability provided for in this subsection is a limited exemption that shall be strictly construed and shall not apply to an activity that is not expressly permitted under the Oklahoma Industrial Hemp Program.



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SECTION 3-404 License

A. A person wishing to engage in industrial hemp growth, cultivation, handling or processing authorized under the Oklahoma Industrial Hemp Program shall apply to the Oklahoma Department of Agriculture, Food, and Forestry for a license prior to planting, handling, or processing the industrial hemp.

1. The application shall include:

- a. the name and address of the applicant,
- b. the legal description, global positioning system location, and map of the land area on which the applicant will engage in industrial hemp growth and cultivation operations, handling operations or processing operations, and
- c. a statement of intended end use, and

2. By submitting an application, the applicant acknowledges and agrees that:

- a. information provided to the Department may be provided to law enforcement agencies,
- b. the applicant shall allow and fully cooperate with any inspection and sampling that the Department deems necessary,
- c. the applicant will submit all required reports by the applicable due dates specified by the Department, and
- d. the applicant has the legal right to cultivate, handle or process industrial hemp on the registered land area and shall grant the Department access for inspection and sampling.

B. The Department shall collect a nonrefundable fee from the applicant at the time of application. The Department shall set a fee schedule based on the size and use of the land area on which the licensee will conduct industrial hemp growing or cultivation operations and shall set the fee at a level sufficient to generate the amount of monies necessary to cover the Department's direct costs in implementing the Oklahoma Industrial Hemp Program. Denied applications for a license may be resubmitted within a twelve-month period. The Department may waive the fee for resubmitted applications.

C. A license issued pursuant to this section is valid for one (1) year. In order to continue engaging in industrial hemp growth and cultivation operations in Oklahoma, the licensee shall annually apply for a license in accordance with subsection A of this section. The Department may set a separate fee schedule for renewal of existing licenses in good standing.

D. All industrial hemp plant material shall be planted, grown and harvested under a valid license. Any plant material that is not harvested in the license period in which it was planted or volunteer plants that are not destroyed must be declared for inclusion in a subsequent license.

E. If the licensee wishes to alter the land area on which the licensee will conduct industrial hemp growth, cultivation, handling or processing operations within thirty (30) days of any new license, before altering the area, the licensee shall submit to the Department an updated legal description, global positioning system location, and map specifying the proposed alterations.

F. Each licensee shall report any changes to information provided in the license application within ten (10) days of such change to the Department.



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G. A licensee shall maintain all records pertaining to the license and growing records for a minimum of three (3) years.

H. The Department shall promulgate rules necessary to implement the licensing program and to implement the Oklahoma Industrial Hemp Program.

I. The Department shall promulgate rules to facilitate transportation of industrial hemp.

SECTION 3-406 Harvest report required

A. At least thirty (30) days prior to harvest, each licensee shall file a harvest report on a form approved by the Department that includes:

1. A statement of intended disposition of its industrial hemp crop; and
2. The harvest date or dates, location and yield of each variety cultivated within a registered land area;

B. A licensee shall notify the Department immediately of any changes in a reported harvest date by more than five (5) days.

SECTION 3-407 Inspection and sampling

A. Any plants of the licensee are subject to at least annual routine inspection and sampling to verify that the plant meets the definition of industrial hemp. The Department shall notify each licensee of the scope of the inspection and the process by which the inspection will be conducted. The Department shall promulgate rules regarding the procedures of inspection and sampling.

B. The Department may inspect and take samples from any licensee's plants during normal business hours.

C. Licenses for handling or processing shall be subject to at least annual inspections in addition to compliance inspections.

D. The Department shall make a good-faith attempt to have the licensee present at the time of inspection and sampling. The licensee or authorized representative shall provide the Department's inspector with complete and unrestricted access to all plants, parts and seeds, whether growing or harvested, and all land, buildings and other structures used for the growth, cultivation, harvesting, storage, handling, or processing of industrial hemp, and all documents and records pertaining to the licensee's industrial hemp-growing, cultivation, handling and processing.

E. The licensee shall pay for any inspection and laboratory analysis costs that the Department deems necessary within thirty (30) days of the date of the receipt of an invoice for the costs. The Department shall waive all inspection or sampling costs if no inconsistencies or violations are identified during an inspection that is not part of the regular annual inspection process.

F. The Department shall promulgate rules to establish a process by which a licensee may contest the procedures, protocols and results or findings of the inspection.



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SECTION 3-408 License denial or revocation

A. The Department may deny, revoke or suspend a license if the licensee:

1. Violates any provision of the Oklahoma Industrial Program or rules adopted pursuant to the program;
2. Engages in fraud or deception in the procurement of or attempt to procure a license under this Oklahoma Industrial Hemp Program or provides false information on a license application;
3. Refuses or fails to cooperate and assist the Department with the inspection process;
4. Refuses or fails to provide any information required or requested by the Department for purposes of the Oklahoma Industrial Hemp Program;
5. Knowingly provides false, misleading or incorrect information pertaining to the licensee's cultivation, handling or processing of industrial hemp to the Department by any means, including information provided in any application form, report, record or inspection required or maintained for purposes of the Oklahoma Industrial Hemp Program;
6. Fails to submit any report required by the Oklahoma Industrial Hemp Program; or
7. Fails to pay fees required by the Oklahoma Industrial Hemp Program.

B. 1. A licensee that negligently violates the provisions of the Oklahoma Industrial Hemp Program shall not be subject to a criminal enforcement actions; and

2. A licensee that negligently violates the provisions of the Oklahoma Industrial Hemp Program three (3) times in any five-year period shall be ineligible to obtain a license to produce hemp for a period of five (5) years beginning on the date of the third violation.

C. Any person convicted of a felony relating to a controlled substance under state or federal law shall be ineligible during the ten-year period following the date of conviction to participate in this program.

SECTION 3-410 Revolving fund created

There is hereby created in the State Treasury a revolving fund for the State Board of Agriculture to be designated the "Oklahoma Industrial Hemp Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the State Board of Agriculture from fees received and collected pursuant to the Oklahoma Industrial Hemp Program, donations, grants, contributions and gifts from any public or private source. The Board may expend funds for the purposes set forth in the Oklahoma Industrial Hemp Program. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 3-410 Cannabidiol not processed from sources in violation of US code or regulations

Cannabidiol shall not be processed in the State of Oklahoma from any sources which would be in violation of the United States Code or the Code of Federal Regulations.



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EXHIBIT 2

ODAFF INDUSTRIAL HEMP PROGRAM RULES



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TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION SUBCHAPTER 24 - OKLAHOMA INDUSTRIAL HEMP PROGRAM

35:30-24-1. Purpose

The rules of this subchapter establish the licensing requirements and regulation of the Oklahoma Industrial Hemp Program pursuant to the Oklahoma Agricultural Code, 2 O.S. § 3-401 et seq. The licensing requirements and regulation of the Oklahoma Industrial Program shall be administered by the Department and shall conform to the Administrative Procedures Act, 75 O.S. § 250 et seq.; to the Oklahoma Agricultural Code, 2 O.S. § 1-1 et seq.; and to the procedural rules promulgated by the State Board of Agriculture in Title 35 of the Oklahoma Administrative Code.

35:30-24-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Acceptable Hemp THC Level" means when a laboratory tests a sample, it must report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level for the purpose of compliance with the requirements of state hemp plan is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less.

"Building" means any single standing structure with walls and a roof but shall not include separate structures connected by corridors or breezeways.

"Cannabis" means the plant that, depending upon its THC concentration level, is further defined as either "hemp" or "marijuana". Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species and Cannabis indica and Cannabis ruderalis are subspecies thereof. Cannabis refers to any form of the plant where the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined. The term "Cannabis" is important in describing regulations that apply to plant production, sampling, or handling prior to determining the plant's THC content.

"Contiguous field" means any contiguous tract of land used for the cultivation of industrial hemp and may include contiguous tracts of land occasionally intersected by roads, streams, or other natural features but shall not include a tract or tracts of land intersected by property owned by a third party or gaps in the cultivation of industrial hemp exceeding one quarter of a mile.

"Controlled Substances Act (CSA)" means the federal statutes, codified at 21 U.S.C. 801-971, establishing federal U.S. drug policy under which the manufacture, importation, exportation, possession, use, and distribution of certain substances is regulated. Because cannabis containing THC concentration levels of higher than 0.3 percent is deemed to be marijuana, a schedule I controlled substance, its regulation falls under the authorities of the CSA. The requirements of the CSA are relied upon for the disposal of cannabis that contains THC concentrations above 0.3 percent.

"Cultivation" means the act of planting, growing, or harvesting industrial hemp and any related agricultural activities.



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"Cultivation site" means the contiguous field, building, storage area, or processing area in which one or more varieties of industrial hemp may be lawfully cultivated, stored, or processed.

"Decarboxylated" means the completion of the chemical reaction that converts THC-acid (THCA) into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THCA. This term, commonly used in scientific references to laboratory procedures, is the precursor to the term "post-decarboxylation," a term used in the 2018 Farm Bill's mandate over cannabis testing methodologies to identify THC concentration levels.

"Delta-9 tetrahydrocannabinol", "Delta-9 THC" or "THC" means the primary psychoactive component of cannabis. Hemp production shall be verified as having THC concentration levels of 0.3 percent or less on a dry weight basis.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, its employees, officers, and divisions.

"Growing area" means the portion of a contiguous field or building in which a single variety of industrial hemp is planted, grown, and harvested.

"Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. Handling includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.

"Industrial hemp" means the plant, *Cannabis sativa* L., and any part of the plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

"Key Participants" means a person or persons who have a direct or indirect financial interest in an entity producing hemp, such as an owner or a partner in a partnership. Executive level corporate employees, including chief executive officer, chief operating officer, and chief financial officer shall be considered Key Participants. Management level positions such as farm, field, and shift managers shall not be considered Key participants.

"License" means authorization by the Department for any person to grow and cultivate industrial hemp on a registered land area as part of the Oklahoma Industrial Hemp Program.

"Licensee" means a person who holds a valid Industrial Hemp License to grow industrial hemp under the Oklahoma Industrial Hemp Program.

"Postdecarboxylation" means testing methodologies for THC concentration levels in hemp, where the total potential delta-9-tetrahydrocannabinol content, derived from the sum of the THC and THCA content, is determined and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, known as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. The result of this test calculates total potential THC. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THCA intact, and requires a conversion calculation of that THCA to calculate total potential THC.



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"Processing" means converting industrial hemp into a marketable form, including the production of all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.

"Processing area" means any physical location in which entire harvested plants are altered by any manner of mechanical, chemical, or other processing techniques. The processing area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Produce" refers to the propagation of cannabis to produce hemp.

"Storage area" means any physical location in which harvested plants or plant parts are stored. The storage area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Subcontractor" means a person or business entity that has contracted with an institutional licensee and provides supplies, labor, land, or expertise related to the institutional licensee's participation in the Oklahoma Industrial Hemp Program.

"USDA" means the United States Department of Agriculture.

35:30-24-3. Application

(a) Any person, eighteen (18) years of age or older, or business entity may participate in the Oklahoma Industrial Hemp Program by filing an application with the Department for a license:

- (1) Not less than thirty (30) days prior to the planting, cultivation, handling, or processing of any industrial hemp crop; or
- (2) No later than December 1 if a subsequent license is required to harvest industrial hemp crops planted before December 31 but scheduled for harvest after December 31.

(b) An applicant shall submit a separate application, pay separate application and inspection fees, and obtain a separate license for each cultivation site.

(c) The application shall be on a form provided by the Department and shall, at a minimum, contain the following information:

- (1) The name and address of the applicant;
- (2) EIN number, if the applicant is a business entity, along with names and email addresses of key participants;
- (3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;
- (4) If the applicant intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;
- (5) If the applicant intends to utilize subcontractors, the address for the subcontractors' primary business locations and any satellite business offices located in Oklahoma;
- (6) If the applicant intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;
- (7) Proof of ownership for the cultivation site and the following information if the cultivation site is not wholly owned by the applicant:



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- (A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site;
 - (B) An original signed, dated, and notarized letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of industrial hemp at the cultivation site;
 - (C) If applicable, a copy of the property lease for the entire duration of the license;
- (8) If the application identifies a contiguous field as the cultivation site:
 - (A) A legal description (Section, Township, Range) of the contiguous field;
 - (B) The global positioning location coordinates at the approximate center of the contiguous field; and
 - (C) An annotated map or aerial photograph with sufficient detail and clarity to define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of industrial hemp corresponding to each growing area;
- (9) If the application identifies a building as the cultivation site:
 - (A) The physical address of the building;
 - (B) The global positioning location coordinates of the building; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of industrial hemp corresponding to each growing area;
- (10) A description of any areas used to store or process plants or plant parts, including but not limited to:
 - (A) The physical address or location of any storage areas or processing areas;
 - (B) The global positioning location coordinates of any storage areas or processing areas; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;
- (11) A schedule identifying the intended dates of planting and intended dates of harvesting any industrial hemp crop or crops;
- (12) A statement of intended use and disposition for the industrial hemp harvested from the cultivation site or any plant parts thereof;
- (13) A notarized and sworn statement from an official or employee of the applicant and from an official or employee of any associated subcontractor that only industrial hemp seed will be planted at the cultivation site; and
- (14) Acknowledgement and agreement with the following terms and conditions:
 - (A) Any information provided by the applicant or subcontractors shall be subject to public disclosure under the Open Records Act;
 - (B) Any information provided by the or subcontractors may be released by the Department to law enforcement agency without notice to or its subcontractors;



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(C) The applicant and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow the Department to conduct inspection and sampling ; and

(D) The applicant and subcontractors shall submit all required reports by the dates specified by the Department.

(15) Each applicant shall provide current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.

(d) The application for a processor/ handlers license shall be on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name and address of the applicant;

(2) EIN number, if the applicant is a business entity, along with the names and email addresses of key participants; and

(3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the processing or handling of industrial hemp.

(e) Each applicant shall provide current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.

(f) Each applicant and subcontractor shall fully cooperate with the Department, grant the Department physical access to any part of a cultivation site, and allow the Department to conduct inspection and sampling.

(g) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.

(h) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.

35:30-24-4. Grounds for denial of application

(a) The Department may consider a number of factors when deciding to grant or deny a license including, but not limited to, the location of the cultivation site; the criminal history of the applicant, subcontractor, or employees thereof; and prior administrative actions taken by the Department against the applicant, subcontractors, or employees thereof.

(b) The Department's denial of a license may be contested in the manner provided by this subchapter.

35:30-24-5. License

(a) A separate license shall be required for each cultivation site operated by a licensee.

(b) All licenses expire on December 31 of the year in which the license was issued. Any industrial hemp that is not harvested on or before December 31 shall be declared for inclusion in a subsequent license or destroyed by the licensee.

(c) Every license issued by the Department shall remain the property of the Department. Possession of a license does not confer any property right or exemption from criminal liability under the Uniform Controlled Dangerous Substances Act to the licensee, subcontractor, or officials or employees thereof that is not expressly described in this subchapter.



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- (d) The Department may restrict, limit, or impose conditions on any license that are not similarly imposed on other licensees or cultivation sites.
- (e) Licenses shall not be assigned, transferred, pledged, or otherwise disposed of, alienated, or encumbered.
- (f) Unless the context expressly indicates otherwise, a subcontractor's compliance with the Oklahoma Industrial Program and the rules of this subchapter shall be sufficient to satisfy the obligations of the licensee to comply with the Oklahoma Industrial Hemp Program and the rules of this subchapter.
- (g) All applications for outdoor cultivation sites shall be submitted on or before July 1.

35:30-24-5.1 Land use restrictions

- (a) A licensee shall not grow, handle, process, or store industrial hemp in any structure that is used for residential purposes.
- (b) A licensee shall not grow, handle, process, or store industrial hemp in any outdoor field or site that is located within one thousand (1,000) feet of a school, daycare, or similar public area frequented by children as determined by the Department.

35:30-24-5.2 Restrictions on sale, transfer, and storage

- (a) A licensee shall not sell or transfer or permit the sale or transfer of living industrial hemp plants, viable plant parts, or seeds to any person in the state who does not hold an industrial hemp license issued by the Department.
- (b) Licensees may transfer up to one (1) pound of industrial hemp plants or plant parts per transfer to testing laboratories, both within and outside the state for the purpose of measuring THC, CBD, or other phytocannabinoid profile levels. It is the responsibility of the licensee to ensure compliance with the laws of other states.
- (c) A licensee shall not store live industrial hemp plants or propagating stock at any location that has not been approved by the Department on that licensee's application.
- (d) Storage of hemp shall be locked and secured.

35:30-24-5.3 Establishing records with USDA Farm Service Agency

Licensees shall report industrial hemp crop acreage or square footage to the USDA Farm Service Agency and shall provide, at a minimum, the following information:

- (1) Street address and, to the extent practicable, geospatial location for each lot, greenhouse, or indoor growing structure where industrial hemp will be produced. If an applicant operates in more than one location, information shall be provided for all production sites;
- (2) Acreage or square footage for each lot, greenhouse, or indoor growing structure dedicated to the production of industrial hemp;
- (3) License number; and
- (4) Total acreage or square footage of industrial hemp planted, harvested, and destroyed.
- (5) Report any changes to this information within 30 days to USDA Farm Service Agency.



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35:30-24-6. Continuing obligation to provide information

- (a) Every licensee shall have a continuing obligation to provide current information to the Department. The licensee shall provide updated information if there is any material change to the information provided in the application within ten (10) days of the material change unless otherwise specified herein, including but not limited to, changes in personnel or contact information.
- (b) The licensee shall file an amendment to the licensee's application not less than thirty (30) days prior to making any alteration to boundaries, dimensions, or growing areas of a cultivation site or a change in the variety of industrial hemp cultivated.
- (c) The licensee shall immediately notify the Department of any change to the planting and harvesting schedule exceeding five (5) days from the planting and harvesting schedule listed in the application.
- (d) The employment of a new subcontractor or replacement of an existing subcontractor associated with a license for a particular cultivation site shall require the submission of a new application and the payment of new application and inspection fees by the licensee.

35:30-24-6.1. Transportation

Upon the request of the Department or any authorized law enforcement officer, any person transporting industrial hemp shall produce the following documents for inspection:

- (1) Copy of current hemp grower's license;
- (2) Current approved certificate of analysis for the harvested hemp crop; and
- (3) Processor/Handlers license number, name, address, and contact information.

35:30-24-7. Fees

- (a) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable application fee at the rate of Five Hundred Dollars (\$500.00).
- (b) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable site inspection fee calculated at the rate of Five Dollars (\$5.00) per acre on a contiguous field or Thirty-Three Cents (\$0.33) per square foot in a building.
- (c) An hourly inspection rate consisting of Thirty-Five Dollars (\$35.00) per hour per inspector for actual time devoted to the inspection of a cultivation site shall be charged following routine or unannounced inspections. The calculation of the hourly inspection rate shall include the inspectors' travel time from the inspectors' duty station to the cultivation site, the time devoted to inspection of the cultivation site, and the inspectors' travel time returning from the cultivation to the inspectors' duty station.
- (d) Application amendments or notifications of material change to the information provided in an application shall not require the payment of additional application fees but may, at the discretion of the Department, require additional inspections and the payment of additional site inspection fees and fees assessed at the hourly inspection rate at the same rate charged for a new application.
- (e) Each new, subsequent, or renewed application for a license to process or handle industrial hemp shall require the payment of a nonrefundable application fee as follows:
 - (1) One Thousand Dollars (\$1,000.00) for annual sales less than and including Fifty Thousand Dollars (\$50,000.00);



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- (2) Two Thousand Five Hundred Dollars (\$2,500.00) for annual sales less than and including Two Hundred Fifty Thousand Dollars (\$250,000.00) but more than Fifty Thousand Dollars (\$50,000.00); and
- (3) Five Thousand Dollars (\$5,000.00) for annual sales greater than Two Hundred Fifty Thousand Dollars (\$250,000.00).

35:30-24-8. Hemp seed

Any person who sells hemp seed shall:

- (1) Include a statement on the label which offers a copy of the current Certificate of Analysis and shall provide a copy of the current Certificate of Analysis upon request; and
- (2) Comply with the provisions of the Oklahoma Seed law and rules.

35:30-24-9. Harvest reports

- (a) Not less than thirty (30) days prior to harvest, the licensee shall file a harvest report on a form provided by the Department and shall, at a minimum, contain the following information:
 - (1) The name of the licensee and any associated subcontractors;
 - (2) The location of the cultivation site or parts thereof wherever situated;
 - (3) A description of each variety of industrial hemp growing at the cultivation site;
 - (4) The expected date or dates of harvest for each variety of industrial hemp growing at the cultivation site;
 - (5) The expected yield for each variety of industrial hemp planted at the cultivation site along with a description of the growing area in which each variety was planted sufficient to calculate the growing area in acres for outdoor cultivation or square feet for indoor cultivation;
 - (6) A description of the intended use and disposition of the industrial hemp product, including but not limited to:
 - (A) Whether the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department to identify the price for a specific quantity of industrial hemp;
 - (B) Whether individual plant parts rather than the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department to identify the price for a specific quantity of plant parts along with a description of the plant parts sold or transferred;
 - (C) A general description of any mechanical, chemical, or other processing techniques applied to the whole plant before sale or transfer to a third party;
 - (D) The name and contact information of the person or business entity to which the whole plant or plant parts will be sold or transferred; and
 - (E) Whether the whole plant or any part thereof will be destroyed after harvest;
 - (7) A description of fertilizers, pesticides, or other chemicals applied to each variety of industrial hemp planted at the cultivation site;
 - (8) A description of irrigation or water management practices applied to each variety of industrial hemp planted at the cultivation site;



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- (9) A description of tillage or ground preparation practices applied to each variety of industrial hemp planted at the cultivation site; and
 - (10) A description of the environmental impacts and viability of each variety of industrial hemp planted along with any supporting documentation.
- (b) On or before December 1, the licensee shall supplement the harvest report and declare the actual yield for each variety of industrial hemp planted at the cultivation site and any material change to the information supplied in the harvest report.

35:30-24-10. Records

- (a) The licensee shall retain the following records for no less than three (3) years from the date the record is obtained or generated:
- (1) All records relating to information supplied in the application for a license;
 - (2) All records relating to the use and disposition of industrial hemp harvested or any plant parts thereof;
 - (3) All records relating to the storage or processing of industrial hemp or any plant parts thereof;
 - (4) All records relating to the destruction of industrial hemp harvested or any plant parts thereof, including but not limited to, any affidavits, notifications, and electronic records required by this subchapter.
- (b) The processor/handler licensee shall retain the following records for three (3) years from the date the record is obtained or generated:
- (1) License number of the grower;
 - (2) Copy of the Certificate of Analysis; and
 - (3) Amount of hemp purchased from grower.
- (c) The licensee shall produce or allow inspection of records at the request of the Department.
- (d) The licensee's obligation to retain and produce records shall be satisfied if the subcontractor retains or produces records.

35:30-24-11. Inspection and testing

- (a) The Department shall utilize an evidence gathering methodology approved by the United States Department of Agriculture for the inspection of cultivation sites and the collection of industrial hemp test samples.
- (b) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) must be conducted and reported by a laboratory registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.
- (c) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) must be conducted in accordance with the USDA's most current Testing Guidelines for Identifying Delta-9 Tetrahydrocannabinol (THC) Concentration in Hemp. Such testing must meet the following standards:



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- (1) Analytical testing of samples for delta-9 tetrahydrocannabinol concentration shall use post-decarboxylation or other similarly reliable methods;
 - (2) Testing methodology shall account for the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test results shall reflect the total available THC derived from the sum of the THC and THCA content;
 - (3) Total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on dry weight basis; and
 - (4) A measurement of uncertainty shall be estimated and reported with the lab results. The laboratory shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.
 - (5) Quantitative determination of THC levels measured using liquid chromatography with ultraviolet detection (LC-UV) or mass spectral detection if required by matrix interference (LC/MS/MS) shall be the accepted analytical technique to avoid the risk of incomplete decarboxylation, therefore, removing the need for any post-decarboxylation.
- (c) The Department shall inspect and take samples from any cultivation site and mature *Cannabis sativa* L. plants located thereon, as follows:
- (1) Within fifteen (15) days prior to the anticipated harvest of cannabis plants, a sample from the flower material shall be collected to determine the total delta-9 tetrahydrocannabinol concentration.
 - (2) The Department shall send notification of routine inspections to the licensee and subcontractor, if applicable, describing the date, time, scope, and process of routine testing. The licensee, subcontractor, or representative shall be present during routine inspections and grant unrestricted access to the Department.
 - (3) The Department may conduct unannounced inspections and collect samples from any cultivation site during regular business hours without advance notice.
 - (4) A producer shall not harvest the cannabis plants prior to collection of samples
- (d) Industrial hemp test samples collected by the Department during routine or unannounced inspections shall be tested to verify that the delta-9 tetrahydrocannabinol concentration of industrial hemp does not exceed 0.3% on dry weight basis.
- (e) Industrial pre-harvest hemp sampling shall be conducted according to the Department standard field operating procedures.
- (f) The licensee shall pay the hourly inspection fees and laboratory analysis costs for any routine and unannounced inspections within thirty (30) days after receiving an invoice from the Department.
- (g) The Department shall waive all hourly inspection fees and laboratory analysis costs for an unannounced inspection if no violations or inconsistencies are identified by the Department.

35:30-24-12. Violations

- (a) The Department may deny, suspend, or revoke a license or fine a licensee upon a finding by the Department that the licensee has violated the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter.
- (b) Violations committed by subcontractors or officials and employees thereof shall be considered violations of the licensee.



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- (c) The fine for violating the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall not exceed Ten Thousand Dollars (\$10,000.00) per violation per day or occurrence.
- (d) Violations of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall include, but not be limited to, the following conduct:
- (1) Providing false, misleading, or incorrect information or otherwise engaging in fraud or deception to secure or retain a license;
 - (2) Failure to timely, accurately, and truthfully complete and submit any application, report, or request for information from the Department;
 - (3) Failure to retain records required by this subchapter or produce such records at the request of the Department;
 - (4) Failure to be present or send a representative for a routine inspection;
 - (5) Interference with the inspection process, including, but not limited to, refusal to grant unrestricted access to a cultivation site, impeding the sampling of plants, or refusal or failure to fully cooperate with the Department's inspections;
 - (6) Failure to timely pay any fee or invoice issued by the Department;
 - (7) Planting, growing, harvesting, storing, or processing the plant, *Cannabis sativa* L., in locations other than the cultivation site described in the application for license or amendments thereto;
 - (8) Commingling hemp plant material from one lot with hemp plant material from another lot;
 - (9) Refusal or failure to comply with orders of the Department or the rules of this subchapter requiring the destruction of industrial hemp, *Cannabis sativa* L. plants with a total delta-9 tetrahydrocannabinol concentration of exceeding three-tenths of one percent (0.3%) on a dry weight basis, or any plant parts thereof;
 - (10) Handling, processing, or selling non-compliant hemp which enters the stream of commerce;
 - (11) Failure to disclose different varieties of *Cannabis sativa* L. plants in a single growing area;
 - (12) Failure to follow transportation rules as provided within this subchapter; and
 - (13) Processing or handling hemp grown without a license.
- (e) A violation of the Oklahoma Industrial Hemp Act and Rules will be subject to enforcement in accordance with Title 2 O.S. §§ 3-401 *et seq.*

(1) In the event the Department determines that a Licensee has negligently violated the Oklahoma Industrial Hemp Act and Rules, then the Department will issue a Corrective Action Plan to said Licensee.

A. The Corrective Action Plan will include, but may not be limited to:

- (i) A reasonable date by which the Licensee must correct the negligent violation, which may include destruction of hemp crops in accordance with these Rules;
- (ii) A requirement that the Licensee must periodically report to Department on the compliance status of the Licensee with the Corrective Action Plan for a period of not less than two (2) years after the violation; and



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- (iii) Any and all reasonable steps the Department deems necessary and proper to address the negligent violation(s).
 - B. Licensees do not commit a negligent violation if they make reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration of more than 0.5 percent on a dry weight basis.
 - C. The Department will monitor and conduct any and all inspections necessary to determine if the Corrective Action Plan has been implemented as required.
- (2) If the Commissioner determines that a Licensee has violated the Oklahoma Industrial Hemp Act and Rules with a culpable mental state greater than negligence, the Department will immediately report the Licensee to the United States Attorney General and the Oklahoma Attorney General, and such violations will be subject to enforcement in accordance with applicable law.
- (3) Persons who violate the Oklahoma Industrial Hemp Act and Rules are subject to enforcement in accordance with the Oklahoma Industrial Hemp Act and Rules, and other applicable state law.
- (4) Violations of the Oklahoma Industrial Hemp Act and Rules may result in civil enforcement.

35:30-24-13. Destruction

- (a) The licensee shall destroy all *Cannabis sativa* L. plants or plant parts if required by the rules of this subchapter or by order of the Department.
- (b) Destruction of plants shall be conducted pursuant to the provisions of subsection (e) of this section unless the Department provides the licensee written authorization for an alternate method of destruction.
- (c) The licensee shall document the destruction of *Cannabis sativa* L. plants or plant parts in a corrective action plan, as follows:
 - (1) The licensee shall submit a notification of intended destruction, including the time and date of destruction, to the Department not less than five (5) days prior to the date that the licensee intends to undertake the destruction of the *Cannabis sativa* L. plants or plant parts. Destruction shall only occur in the presence of a Department inspector or representative;
 - (2) The licensee shall make and retain a date-stamped electronic video recording the collection, ignition, and incineration of the *Cannabis sativa* L. plants or plant parts. The video recording shall be retained as a record relating to the destruction of industrial hemp for not less than three (3) years. The date stamp need not be displayed on the video recording but shall, at a minimum, appear in the electronic file name. The electronic video recording shall consist of sufficient duration and detail to verify that the destruction occurred and was complete; and
 - (3) An officer or employee of the licensee or subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp shall submit an affidavit to the Department affirming the destruction not more than ten (10) days following the destruction.



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(d) Destruction by incineration shall be conducted safely and shall be conducted in a manner consistent with the requirements for prescribed burning at 2 O.S. §16-28.2. The licensee shall delay the destruction required by this subchapter or by order of the Department until the risk of starting a wildfire is minimal.

(e) If a producer has produced cannabis exceeding the acceptable hemp THC level, the material shall be disposed of in accordance with the CSA and DEA regulations as the material constitutes marijuana, a schedule I controlled substance under the CSA. The material shall be collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized Federal, State, or local law enforcement officer.

35:30-24-14. Hearings and contests

(a) All administrative actions brought by the Department seeking the imposition of a penalty for the violation of this subchapter and all contests brought by a licensee or subcontractor shall be considered individual proceedings and shall comply with the Administrative Procedures Act, 75 O.S. § 250 et seq., and the rules of the Department.

(b) The Department shall grant subcontractors legal standing to participate in individual proceedings if the subcontractor is authorized to do so by the licensee that is the subject of the individual proceeding.

(c) The Department shall initiate an individual proceeding by serving a notice of violation on the licensee and any associated subcontractor listed in the Department's records for the cultivation site in question. An individual proceeding initiated by the Department shall be required for the Department to suspend or revoke a license or impose a fine. The Department shall not be required to initiate an individual proceeding for the denial of an application for a license or to enforce the rules of this subchapter, including but not limited to, ordering the destruction of *Cannabis sativa L.* plants as specified herein.

(d) A licensee or authorized subcontractor may initiate an individual proceeding contesting the denial of an application, conditions or limitations placed on a license, or order of destruction by filing a petition with the Department. The petition shall state with particularity the factual grounds, arguments, and citation of legal authorities for the contest.

(e) All individual proceedings shall be heard by an administrative law judge. All evidence and legal arguments shall be offered to the administrative law judge consistent with the regular practices and rules of the Department. The findings and recommendation of the administrative law judge shall be presented to the State Board of Agriculture for a final decision. No new evidence or arguments shall be presented to the State Board of Agriculture.



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EXHIBIT 3

ODAFF INDUSTRIAL HEMP PROGRAM STANDARD FIELD OPERATING PROCEDURES



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IH-01: PRE-HARVEST HEMP SAMPLING

I. Introduction and Purpose

As part of state and federal regulations, the Oklahoma Department of Agriculture, Food & Forestry (ODAFF) must sample all hemp fields and/or varieties; individually known as a “lot” prior to harvest. Samples will be analyzed for tetrahydrocannabinol (THC) according to state and federal regulations to determine whether the specimens are considered industrial hemp or marijuana. The measurements are intended to be representative of the THC concentration of a hemp crop lot as identified by the producer.

II. Scope

Samples collected under this procedure are acceptable for submission to an ODAFF approved DEA-registered laboratory for determination of THC concentration in hemp. Because the THC content of hemp generally peaks as the plant ripens, the timing of sampling is important to accurately measure the true THC concentration of the lot and ensure compliance with the USDA hemp production program.

III. Equipment and Supplies

1. Garden pruners/shears
2. Rubbing alcohol disposable wipes
3. Paper sample bags
 - i. The size of the bag will depend upon the number of clippings collected per lot.
 - ii. Use bags made from material known to be free from THC.
4. Official ODAFF sampling tape (security tape)
5. Permanent markers and ink pens
6. Notice of Inspection
7. *Sample Submission/Chain of Custody* forms
8. Copy of maps showing field(s) to be sampled
9. Copy of licensee planting report
10. ODAFF issued cell phone to verify GPS coordinates
11. Nitrile disposable gloves
12. Bucket to carry samples
13. Plastic container with locking lid for transport

IV. Procedure

A. Grower Responsibilities

1. The licensee or designated responsible party shall accompany the ODAFF inspector throughout the sampling process.
2. The inspector shall be provided with complete and unrestricted access to all hemp plants, whether harvested or not all land, buildings or other structures used for the cultivation, handling and storage of hemp plants or plant parts.



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3. The grower shall harvest the crop not more than 15 days following the date of sample collection by ODAFF.
4. Harvested materials shall not be comingled, removed from the grower's property, or extracted until released by ODAFF and upon receipt of satisfactory laboratory certificate of analysis.

B. Verification of Field to be Sampled

1. The inspector should verify the GPS coordinates of the growing area as compared with the GPS coordinates submitted by the licensee to ODAFF.
2. The inspector should estimate average height, appearance, approximate density, condition of the plants and degree of maturity of the flowering material, meaning inflorescences (flowers/buds).
3. The inspector should visually establish the homogeneity of the stand to establish that the growing area is of like variety.

C. Determining the Number of Subsamples to Collect for the Composite Sample

1. The size of the growing area shall be considered for purposes of determining the number of individual plants to select for sampling. Samples from separate lots (approved location ID) and/or varieties must not be comingled, but must be kept separate.
2. To determine the number of plants to sample for lots less than 10 acres, including greenhouses and indoor growing structures, use Table 1 (included in these procedures).
3. To determine the number of plants to sample for lots greater than 10 acres, including greenhouses and indoor growing structures, use Table 2 (included in these procedures).

NOTE: *The number of plants that will be selected to form a composite sample is based upon the Codex Alimentarius Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLS CAC/GL 33-1999.*

D. Sample Identification and Collection of the Hemp Plant Material

1. Identify all samples with the following minimum information:
 - i. The sample identification shall include the following information to be written on the sample bag: 1) inspector contact information; 2) name and contact information of the licensee; 3) industrial hemp license number; 4) date of sample collection, and 5) Lot ID (approved location ID) as provided by the USDA Farm Service Agency (FSA).
2. Ensure the cutting shears are free from any potential contaminating material prior to entering area to be sampled by wiping them with disposable alcohol wipes.
3. Walk at right angles to the rows of plants, beginning at one point of the lot and walking towards another point on the opposite side of the lot.
4. While walking through the growing area, the inspector shall cut at least "n" flowering material, meaning inflorescences (the flower or bud of the plant) at random but convenient distances. Avoid collecting too many specimens from the borders of the field/greenhouse. Avoid collecting specimens from dead, diseased, pest infested or injured plants.



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5. Make the cut just underneath the flowering material, meaning inflorescence (the flower or bud of a plant), located at the top one-third (1/3) of the plant. (See Figure 1.) The sample size must be of adequate volume to accommodate laboratory tests. (Approximately 2 ounces (56g) of flowering material).
6. Place the cuttings in the paper sample bag. Ensure that each bag has the minimum number of cuttings, “n”, as identified in Tables 1 and 2.
7. Seal each bag by folding over the top twice. Apply official ODAFF sampling tape across the fold. The tape should be initialed by the inspector and the licensee or designated responsible party and the date of collection written across the tape.

E. Completion of Sample Submission Form and Payment Collection

1. Complete a *Sample Submission* and *Chain of Custody* form(s).
2. Transport or ship the sample to the ODAFF Pesticide Laboratory or to an ODAFF approved laboratory for analysis. Every effort should be made to transport or ship the sample to the lab the same day. Keep the sample dry and cool to avoid degradation of the plant material. Inspector must maintain custody of the sample at all times



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Table 1. (Sample size “n” for lots of 10 acres or less in size)

Number of Acres	Sample size “n”	Number of Acres	Sample size “n”
Less than 1	5	6	6
1	5	7	7
2	5	8	8
3	5	9	9
4	5	10	10
5	5		

Table 2. (Sample size “n” for lots of 11 acres to 200 acres)

Number of Acres	Sample Size ‘n’	Number of Acres	Sample Size ‘n’	Number of Acres	Sample Size ‘n’	Number of Acres	Sample Size ‘n’
11	11	44	39	85-86	67	137-138	95
12	12	45-46	40	87	68	139-140	96
13	13	47	41	88-89	69	141-143	97
14	14	48	42	90-91	70	144-145	98
15	15	49-50	43	92	71	146-147	99
16	16	51	44	93-94	72	148-149	100
17	17	52	45	95-96	73	150-152	101
18-19	18	53-54	46	97-98	74	153-154	102
20	19	55	47	99	75	155-156	103
21	20	56	48	100-101	76	157-158	104
22	21	57-58	49	102-103	77	159-161	105
23	22	59	50	104-105	78	162-163	106
24	23	60-61	51	106-107	79	164-166	107
25-26	24	62	52	108	80	167-168	108
27	25	63-64	53	109-110	81	169-170	109
28	26	65	54	111-112	82	171-174	110
29	27	66-67	55	113-114	83	175-177	111
30	28	68	56	115-116	84	178-179	112
31-32	29	69-70	57	117-118	85	180-182	113
33	30	71	58	119-120	86	183-184	114
34	31	72-73	59	121-122	87	185-187	115
35	32	74	60	123-124	88	188-190	116
36	33	75-76	61	125-126	89	191-192	117
37-38	34	77	62	127-128	90	193-195	118
39	35	78-79	63	129-130	91	196-198	119
40	36	80-81	64	131-132	92	199-200	120
41-42	37	82	65	133-134	93		
43	38	83-81	66	135-136	94		

Figure 1. Illustration showing where cut should be made below flowering material.

